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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/629,979

07/30/2003

Alfred Hardy Sullivan JR.

IAC46229

9505

32047

7590

02/25/2008

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EXAMINER

DANIELS, MATTHEW J

ART UNIT

PAPER NUMBER

1791

MAIL DATE

DELIVERY MODE

02/25/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/629,979	<b>Applicant(s)</b> SULLIVAN ET AL.	
	<b>Examiner</b> MATTHEW J. DANIELS	<b>Art Unit</b> 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 18,21-23 and 25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18,21-23 and 25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                      |                                                                   |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                          | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 28 November 2007 has been entered.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 18 and 21-23** are rejected under 35 U.S.C. 103(a) as being unpatentable over Gribble (USPN 6271276) in view of Beernaerts (USPN 4114213) and Alfter (USPN 3954537).

**As to Claim 18**, Gribble teaches a process for forming an article which could be used as a trim panel comprising supplying a cloth (a carpet, 7:40-65, or other textile, 1:15-20) having a backside, coating the backside with a liquid polyurethane dispersed in water (2:35-40), which would obviously form a relatively smooth backing layer thickness having a thickness of about 10 mm (1:44), and evaporating the water from the backing layer (8:30-35).

Gribble is silent to:

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- c) forming a molded plastic substrate by injection molding which does not allow strikethrough, and;
- d) incorporating the material into a vehicle as a trim cover.

However, these aspects of the invention would have been prima facie obvious for the following reasons:

- c) Beernaerts teaches incorporating a second foam on the backing layer, where the first foam would not allow strikethrough of the cloth by the second backing foam (4:42-46). Although silent to an “injection molding process”, it is submitted that injection molding processes are conventional, as demonstrated by Alfter (4:2).
- d) The article of Gribble, Beernaerts and Alfter would have obviously been capable of incorporation into a vehicle. In addition, Alfter clearly suggests such materials for use in automobiles (2:39).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate the methods of Beernaerts and Alfter into that of Gribble for the following reasons:

- a) Gribble clearly provides coated textile or fabric materials, and Beernaerts clearly suggests a method to be used with coated textiles or fabrics.
- b) One of ordinary skill in the art would have found it obvious to substitute the injection molding of Alfter for the simple introduction of foaming material found in Beernaerts. Doing so would provide the expected benefit that the injected material would fill the mold more thoroughly by the application of pressure.

**As to Claims 21 and 22**, Alfter teaches knit or woven materials (2:25-26), and it is submitted that these would be conventional materials for cushions and upholstery in automobiles and in the invention of Gribble.

**As to Claims 23**, Gribble teaches a density which would read on the claimed density (8:1-28), and in the alternative, could be adjusted to provide a foam having better softness or stiffness.

3. **Claim 25** is rejected under 35 U.S.C. 103(a) as being unpatentable over Gribble (USPN 6271276) in view of Beernaerts (USPN 4114213) and Alfter (USPN 3954537) and further in view of Kobayashi (USPN 5656675). Gribble, Beernaerts, and Alfter teach the subject matter of Claims 18 and 21-23 above under 35 USC 103(a). **As to Claim 25**, Gribble is silent to the particular basis weight. However, Kobayashi also teaches that in an automotive trim article, it is known to provide basis weight fabrics of from 100 to 300 grams per square meter (9:30). It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate the method of Kobayashi, namely the use of a basis weight cloth from 100 to 300 grams per square meter, into the method of Gribble in view of Kobayashi's suggestion that the fabric should be used with a foam backing layer (9:30-45) and the teaching that Gribble provides a method for providing a foam backing layer.

#### ***Response to Arguments***

4. Applicant's arguments with respect to claim 18 have been considered but are moot in view of the new ground(s) of rejection. The arguments appear to be on the following grounds:

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- a) Britt provides a curing process, which is excluded from the claimed invention. No reaction is necessary to form a polyurethane foam.
- b) Alfter laminates the foam and then uses an injection heat to form material onto the back.
- c) Kobayashi teaches forming a foamable polypropylene sheet, and press molding.

5. These arguments are not persuasive for the following reasons:

- a) Note that the reference now cited is that cited in the instant specification on Page 7, thus it is believed to be the case that the claimed process is provided by the reference.
- b,c) In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The combinations of references set forth above teach or suggest all of the claimed limitations.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW J. DANIELS whose telephone number is (571)272-2450. The examiner can normally be reached on Monday - Friday, 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Matthew J. Daniels/  
Examiner, Art Unit 1791  
19 February 2008